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MAGAZINE

VIRGINIA TOWN & CITY

Submitted Online (www.regulations.gov)

Water Docket
Environmental Protection Agency
Mailcode: 28221T
1200 Pennsylvania Ave., NW
Washington, DC 20460

Submitted by Email (vabaytmdl@dc.virginia.gov)

Department of Conservation and Recreation
Commonwealth of Virginia
203 Governor Street
Richmond, VA 23219

Re: EPA Water Docket ID No. EPA-R03-OW-2010-0736, Draft Total Maximum Daily Load ("TMDL") for the Chesapeake Bay; and Virginia Chesapeake Bay Watershed Implementation Plan ("WIP")

To Whom It May Concern:

The Virginia Municipal League (VML) is a statewide, nonprofit, nonpartisan association of city, town and county governments established in 1905 to improve and assist local governments through legislative advocacy, research, education and other services. Our membership includes all 39 cities in the state, 158 towns and 10 counties. In regards to the draft Chesapeake Bay TMDL and draft Virginia Watershed Implementation Plan (WIP) VML offers the following brief comments and recommendations:

State and local governments are faced with a difficult task in meeting the new legal deadline for cleaning up the Chesapeake Bay. VML is committed in partnering with Virginia and the EPA to meet this deadline. However, our member governments - at this time - simply do not have the financial resources to implement the measures currently prescribed in Phase 1 of the draft TMDL.

VML in partnership with the Virginia Association of Counties (VACo) performed a 2010 fiscal survey of 37 cities and 90 counties (see attached PowerPoint slides entitled 2010 Local Government Fiscal Survey Results, September 2010). The results of the survey show a decline in local general fund revenues that have already resulted in a delay or cancellation of capital projects, along with severe cuts in personnel. Additionally, the Virginia Employment Commission (VEC) reports that Virginia local governments in FY 2010 (June 2009 to June 2010) shed more than 15,000 jobs. It is worth noting that during this same time period the federal government added more than 14,000 new jobs

P.O. Box 12164
RICHMOND, VIRGINIA 23241

13 EAST FRANKLIN STREET
RICHMOND, VIRGINIA 23219

804/649-8471
FAX 804/343-3758
e-mail@vml.org
www.vml.org

in Virginia. With local budget shortfalls, limited revenue generation capability, and evaporating debt service capacity, local governments require the necessary federal and state appropriations to meet the pollution load allocation as prescribed in the draft TMDL. As reflected in our recently adopted 2011 legislative statement on water quality funding, VML ... *urges the federal government and the Commonwealth to provide adequate funding for these water quality improvements.*

Within the context of the fiscal limitations outlined above, VML offers the following comments and recommendations to the draft Chesapeake Bay TMDL and draft Virginia WIP:

1. We respectfully request removal of the federal “backstops”.
Understanding there is a question as to whether EPA has the legal authority to employ backstops as part of Virginia’s draft WIP; VML questions their applicability at this stage in the process. Specifically, we will not fully realize the success or failure of specific parts of the WIP until actual implementation begins. Additionally, it is premature to determine that the WIP is inadequate when we have not even begun the process of determining actions to be completed at the sub watershed level with Phase 2 of the WIP. Indeed, we view this as an iterative process where the Phase 2 WIP and subsequent 2-year milestone evaluations will result in changes to improve the TMDL. Lastly, and consistent with the theme of our comments, absent federal and state appropriations to carry out the backstop measures there is no “reasonable assurance” that the draft TMDL can be implemented. In summary, VML contends that the 2-year milestone evaluations will be the appropriate time to evaluate whether the EPA needs to consider additional measures in order to meet target load allocations.
2. We oppose EPA’s cuts to the James River allocation and support Virginia’s inclusion of the James River chlorophyll study within the TMDL.
Citing concerns from both the Virginia Association of Municipal Wastewater Agencies (VAMWA) and the Virginia Municipal Stormwater Association (VAMSA), VML is opposed to the proposed allocations for the James River based upon what we understand to be a problematic standard for chlorophyll-a. In addressing this issue we conclude that the approach to determine the appropriate standard, as set forth by the Virginia Department of Environmental Quality, to be reasonable, financially prudent, and adequate for meeting dissolved oxygen standards for the main stem of the bay by the 2017 interim target load.

3. We support the expansion the Nutrient Credit Exchange (NCE).
By expanding this program to allow for full participation from wastewater, stormwater and on-site septic systems, local governments will be empowered with a necessary tool in making cost-effective decisions in meeting target loads at the sub watershed level. Understanding that EPA has specific concerns regarding the lack of details to this proposal, and that both the EPA and the State of Virginia are working to resolve this issue for inclusion in the final draft Phase 1 WIP, VML as a member of the Virginia TMDL SAG (strategic advisory group) offers our support in resolving any issues related to local government's role in facilitating and participating in an expanded NCE. Additionally, we contend that some details of an expanded NCE will most likely be addressed with development of the Phase 2 WIP.

VML recognizes that there are many other issues affecting our members – legal, technical, and scientific in nature – that need resolution prior to adoption of the Phase 1 TMDL. Given that many of our member governments belong to both VAMWA and VAMSA, we offer our support for addressing these issues as outlined in the comments of both organizations.

In conclusion, as a partner with state and federal government, VML supports the unfolding and iterative process of developing a TMDL plan that will remove the Chesapeake Bay and its tidal tributaries from the “impaired waters” list in a manner consistent with sound fiscal management at all levels of government.

Sincerely,



Joe Lerch

VML Director of Environmental Policy

Enclosure

2010 Local Government Fiscal Survey Results

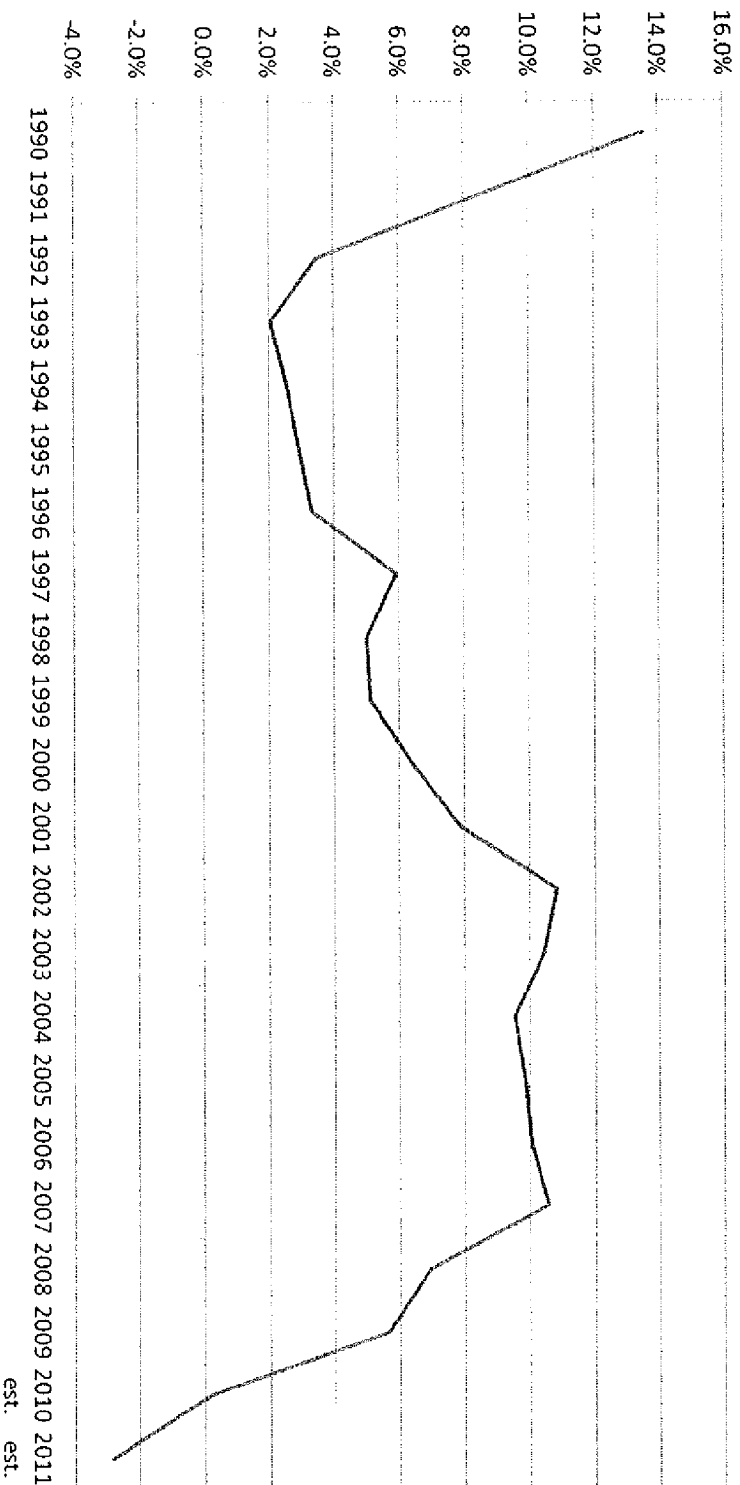
Virginia Municipal League
September 2010

Localities Still Pessimistic

Meet its financial needs	Better	Same	Less Able
<i>All Localities(127):</i>			
FY 2010 as compared to FY 2009?	2.3%	29.0%	68.7%
FY 2011 as compared to FY 2010?	6.3	32.8	60.9
FY 2012 as compared to FY 2011?	2.4	39.4	58.3
<i>Cities (37):</i>			
FY 2010 as compared to FY 2009?	0.0%	23.7%	76.3%
FY 2011 as compared to FY 2010?	0.0	35.1	64.9
FY 2012 as compared to FY 2011?	2.7	45.9	51.4
<i>Counties (90):</i>			
FY 2010 as compared to FY 2009?	3.2%	31.2%	65.6%
FY 2011 as compared to FY 2010?	8.9	31.1	60.0
FY 2012 as compared to FY 2011?	2.2	36.0	61.8

Real Estate Assessments and Real Property Tax Revenues Are Now Declining

Growth in FY Real Property Tax Revenues



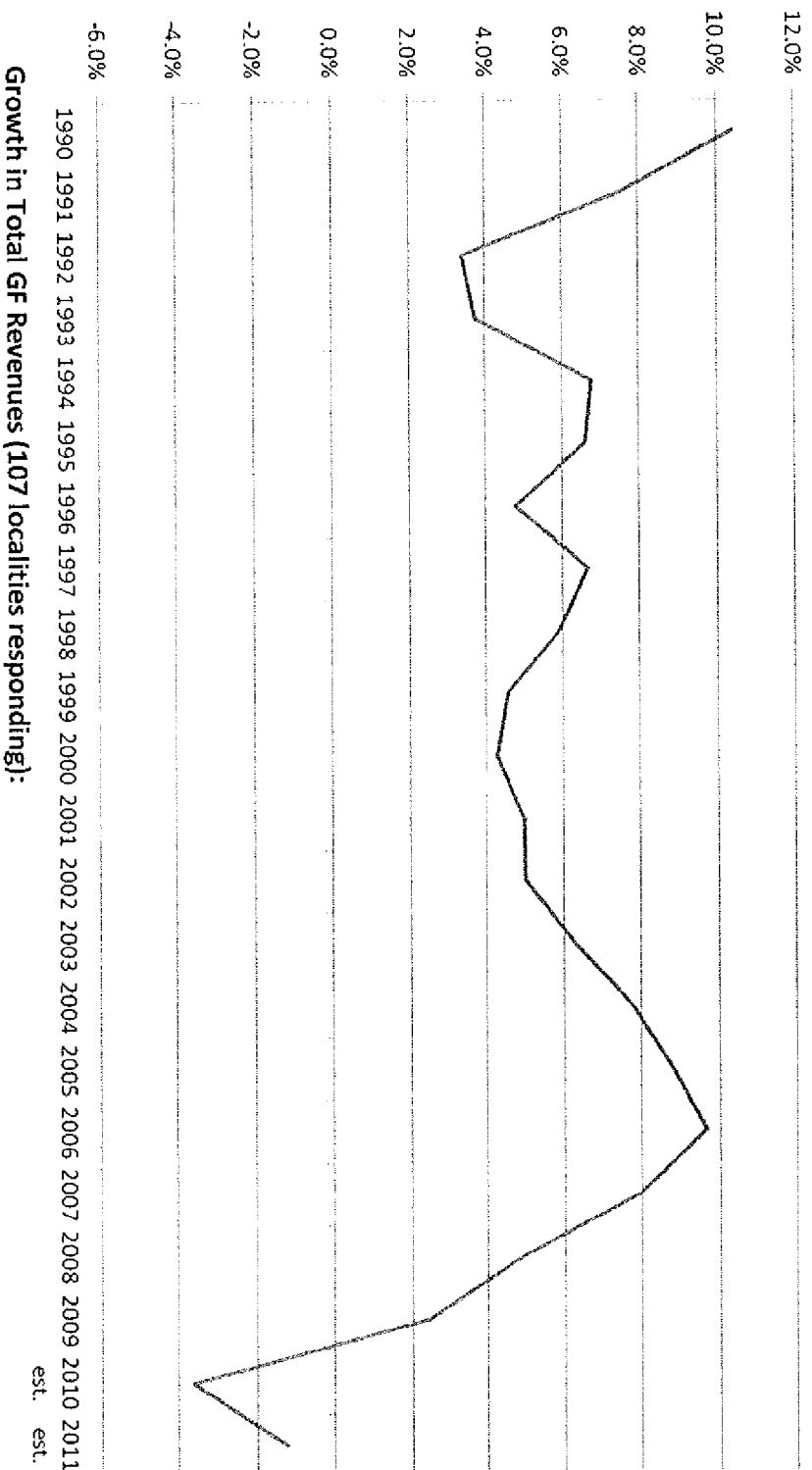
Growth in Total RE Assessed Values (106 localities responding):
2009 to 2010: -5.0%

Growth in Total RE Revenues (109 localities responding):
FY2009 to FY2010: 0.2%
FY2010 to budgeted FY2011: -2.8%

Source: 1990-2009, Auditor of Public Accounts

Total Local Revenues Expected to Decline for Two Years in a Row

Growth in Total FY Local Revenues



FY2009 to FY2010: -3.6%
FY2010 to budgeted FY2011: -1.2%

Source: 1990-2009, Auditor of Public Accounts

Declining State Aid a Major Concern for Localities

Localities Citing Concern:	2009 Total	2010 Total
Declining personal property assessments	33	5
Declining real property values and taxes	48	33
Declining sales taxes	19	15
Other taxes and local revenue declining	78	15
Declining economic conditions	45	10
Declining state aid	72	73
Declining state aid to Education	11	16
Declining state aid to CSA /Social Services	1	5
Declining state aid to Comp Board	3	14
State mandates	9	13
Elimination of stimulus funds	13	5
Declining federal funds	0	8
Maintain level of services	3	2
Elimination of 599 Funds	2	0
Other	<u>16</u>	<u>11</u>
Total Concerns Expressed	353	246

Local Government Budgets Reduced by 2.7% and School Budgets by 3.3% in FY 2011 *

* 109 localities responding	In Top 3 Budget Balancing Actions
Delay or cancellation of capital outlay/infrastructure	40
Personnel layoffs- RIF	33
Increase tax rates	29
Targeted cuts in other services and programs	27
Draw down reserves	26
Targeted cuts in public education	25
Hiring freeze	18
Across the board service cut	16
Renegotiate debt	13
Delay of annual equip. replacement programs	12
Reduced contributions to civic/cultural	11
Reducing staff health care benefits	10
Fee increases	7
Replacing local general funds with special funds	6
Salary or wage reductions	6
Early retirement incentives	5
Targeted cuts in public safety services	5
Personnel furloughs	3
Other	16
	6

Number of Localities Citing Budget Balancing Actions

Delay or cancellation of capital outlay/infrastructure projects for either local government or schools	79
Delay of annual equipment replacement programs (IT equipment or software, vehicles, etc.)	75
Reduced contributions to civic and cultural organizations	73
Targeted cuts in other services and programs (parks, libraries, street operations, leaf pick-up, etc.)	65
Hiring freeze	64
Fee Increases (new or existing)	53
Targeted cuts in public education	52
Increase tax rates	47
Personnel layoffs or Reductions-in-Force	45
Draw down reserves	43
Targeted cuts in public safety services (police, fire, EMS)	42
Across the board services cut	33

... Locality Budget Balancing Actions, Continued

Renegotiate debt	24
Early retirement incentives	17
Increasing use of inter-local and regional agreements to deliver services/share costs	15
Replacing local general funds with special funds	15
Increasing privatization/contracting out	14
Personnel furloughs	11
Sale of assets	10
Establishment of a new contingency fund	10
Reducing retiree benefits (such as health care credits, insurance and other post employment benefits)	6
Salary or wage reductions	4
Other	25

Continued Local Concern About Future Expenditures

<i>Localities Indicating Concern:</i>	<u>2009</u>	<u>2010</u>
Education	48	30
Capital outlay/ infrastructure	40	38
Personnel compensation	38	28
Personnel benefits	34	24
Public safety	26	21
Debt servicing	19	17
CSA	11	14
Unfunded mandates	9	7
VRS	7	10
Transportation	3	3
Compensation Board	n/a	7
Environmental/storm/waste water	n/a	6
Other	<u>33</u>	<u>18</u>
Total	268	223

82 Localities Report Nearly 5,000 Eliminated or Unfunded Positions in FY 2011

	<u>Eliminated FY 2011</u>	<u>Unfunded FY 2011</u>
Education Instruction	1,826	196
Education Non-Instruction	1,011	62
Law Enforcement	169	100
Building Inspectors/planners	162	22
Public works	151	53
Parks & Recreation	146	26
Human/social services	138	13
Libraries	136	9
Fire/EMS	44	17
Other	<u>410</u>	<u>199</u>
Total	4,193	697

VEC Reports Nearly 15,600 Local Government Jobs Lost in FY 2010

	June 2009 Employment	June 2010 Employment	Change	% Change
Total Nonfarm	3,678,000	3,674,400	(3,600)	-0.1%
Natural Resources and Mining	10,100	9,700	(400)	-4.0%
Construction	192,100	182,600	(9,500)	-4.9%
Manufacturing	238,300	231,800	(6,500)	-2.7%
Trade, Transportation, and Utilities	625,200	623,300	(1,900)	-0.3%
Information	81,800	74,700	(7,100)	-8.7%
Finance	181,800	178,300	(3,500)	-1.9%
Professional and Business Services	639,300	643,400	4,100	0.6%
Educational and Health Services	450,700	460,000	9,300	2.1%
Leisure and Hospitality	364,000	366,900	2,900	0.8%
Other Services	188,400	197,700	9,300	4.9%
Government	706,300	706,000	(300)	0.0%
<i>Federal</i>	166,200	180,600	14,400	8.7%
<i>State</i>	148,600	149,500	900	0.6%
<i>Local</i>	391,500	375,900	(15,600)	-4.0%